

Hearing Aid Dispensers Advisory Committee Meeting  
Department of Consumer Affairs  
1625 North Market Blvd., 2<sup>nd</sup> Floor  
El Dorado Conference Room, Suite N-220  
Sacramento, CA 95834  
August 28, 2008

Meeting Minutes

**Agenda Item I--Rollcall**

Mr. Sager called the meeting to order at 11:00 a.m.  
Ms. Crawford took roll call & a quorum was established. All members  
were present except Ms. Carrera.

Advisory Committee Members:

Randall Sager  
Deane Manning  
Judith Horning  
Juanita Sendejas-Lopez  
Deobrah Martin

HADB Staff Present:

Linda Shaw  
Yvonne Crawford  
Debbie Newcomer

**Agenda Item II--Minutes**

Meeting minutes were approved with changes. Changes were made  
& posted to the Internet.

**Agenda Item III-- Bureau Update**

Ms. Yang expressed thanks to all that helped with the last meeting in  
her absence.

## **Budget Update**

Ms. Yang reported that the Bureau is in good shape with a reserve of 20 months. The Bureau has a healthy Reserve balance.

Ms. Yang also reported on the Department of Consumer Affairs Summit that will be held in November in Los Angeles. There are going to be regulatory meetings on Tuesday & Thursday, with workshops held on Wednesday. There are many meetings to choose from with a flexible schedule for attendees.

## **Agenda Item IV—Newsletter Update**

Ms. Crawford reported on the Newsletter Subcommittee meeting that Mr. Sager, Ms. Shaw, Ms. Sendejas-Lopez, & Ms. Crawford attended. The meeting was to discuss reestablishing the newsletter, design, content, desired audience etc.

The group agreed that staff would work with DCA publications & come up with a professional design for the newsletter.

Ms. Martin asked if the first newsletter could direct people to the Bureau's website for future viewing. It will be a work in progress, with hopes that in a year it would be included in the website.

Ms. Sendejas-Lopez commented that after a year we could get feedback & responses & use for flexibility.

Mr. Sager stated that all licensees should receive the newsletter & it will make them aware of a lot of information that might be lacking.

Ms. Peffers stated that HHP could post information on their website regarding the Bureau's newsletter. It was questioned if the newsletter would be available to distribute by the November 17, 2008 Summit.

Ms. Yang questioned a survey of people to see what their response was, what types of information should be included in future issues, & to see if it warrants the overall cost.

Mr. Manning made a motion to approve the Newsletter Subcommittee's recommendation & Ms. Horning seconded the motion.

### **Agenda Item V—Consumer Outreach**

Ms. Crawford reported on several "Meet & Greet" that she & Ms. Newcomer have conducted over the last couple months. The Meet & Greet have been combined with other Bureau events in a particular area. Bureau staff drops by unannounced, introduces themselves, & provides pertinent information regarding the Bureau.

Ms. Crawford also reported that the Bureau attended the annual HHP convention in May 2008. The Bureau conducted a CE course in advertising & has been asked to do another longer advertising class in April 2009, at the next HHP convention.

### **Agenda Item VI—Exam Update**

Ms. Newcomer reported on the upcoming exams. Due to San Diego State University moving the communications clinic, the Bureau has had to change several dates and locations.

### **Agenda Item VII—Definition of "Completion of Fitting"**

Mr. Sager recapped from the last meeting, the idea of written receipts & when completion of fitting actually reaches completion. The problem appears to be an individual definition of completion of fitting. A task force should be involved with what the "definition of fitting" actually is. All of the Committee Members wanted to be on the task force & a public meeting should be held.

Ms. Yang stated that there are a lot of complaints due to "he said/she said" contradictions, & the need to protect the consumer. She wants a fair balance. The definition needs to be clearer, there are many undefined terms. It needs to be made clear to the dispenser with a proper definition.

Ms. Sendejas-Lopez questioned the definition of fitting. How is it going to be used, & will it be in Code? Where is it going to go?

Ms. Dobbs stated that the Song-Beverly Consumer Warranty Act is not a Hearing Aid Dispensers Bureau law, however, it is mentioned in Hearing Aid law under (B&P Code Section 3365). She suggested that we could add to Hearing Aid law to make part of a definition related to completion of fitting & perhaps add to the end of B & P Code Section 3365.

Ms. Yang stated that she would look into proposing regulatory changes.

Ms. Dobbs said other bureaus also have problems with Song-Beverly.

Mr. Ivory stated that Song-Beverly is an umbrella, that was put in statue. He questioned how that would change what the Attorney General says regarding Song-Beverly. Other agencies that use Song-Beverly are home services type, agencies, such as home furnishing. It was originally designed for custom-made medical devices.

Ms. Dobbs said if what we decide isn't in conflict with Song-Beverly, we will be safe. She suggested to draft the language which will include: such a term that states completing of fitting will mean: ...

Mr. Manning stated that when Song-Beverly was written "digital hearing aids" weren't even thought of, and BTE hearing aids (behind-the-ear) worked or didn't work. Technology has changed the ability to work with hearing aids. As long as you can keep a digital hearing aid working, you can adjust it, 5-6 years, but then you most likely have a change in hearing. If a dispenser can make changes, that's to the consumer's benefit, this will create a conflict. It is reasonable to fit a hearing aid, but not after 1-3 years later & the consumer want his money back. A definition of tolling needs to be better defined as well. There aren't a lot of products that in 30-days you can bring back & get a refund. The 30-day return policy is for seeing how the hearing aid is working & at some point the consumer needs to take responsibility. If adjustments need to be made, & the hearing aid is sent away, Song-Beverly would be in place. The consumer is without

156 their hearing aid for 10 days then the warranty would extend for 10  
157 days. There is a point when the consumer has their hearing aid for 30  
158 days & they have to make a decision to keep it or return it.

159  
160 Ms. Horning asked where the manufacturer stood? Some  
161 manufacturers give a 60-day warranty. That could increase the cost  
162 of the hearing aid to the consumer. A final limit needs to be made.

163  
164 Mr. Manning said that a 60-day warranty gives some flexibility, but  
165 the laws apply to dispensers not to manufacturers.

166  
167 Ms. Martin asked what the average number of visits are after the  
168 purchase of hearing aid. Mr. Manning said that three to four visits  
169 were about normal. Digital hearing aids need less adjustment.

170  
171 Ms. Horning said that sometimes consumers are discouraged from  
172 coming back within the 30-day warranty time frame. She documents  
173 how consumers are doing.

174  
175 After the discussion between Committee Members & Ms. Peffers, all  
176 seemed to agree that 30-days seemed an easier term to define than,  
177 "Three visits or 30-days, whichever came first", "30-days in  
178 possession", or "a certain number of visits being allowed".

179  
180 Mr. Sager reported that the struggle dispensers run into is the "30-  
181 day warranty" restarts now for another 30-days if adjustments or  
182 repairs are involved.

183  
184 Ms. Yang questioned what is an adjustment & is it based on  
185 technology?

186  
187 Mr. Manning said we need to give a better definition of 30 days.

188  
189 Ms. Dobbs suggested wording of: "Such terms shall state that for  
190 purposes of this chapter, "Completion of fitting" occurs when...  
191 Adjustments have been made while the device has been in  
192 consumers possession for 30-calendar days."

194 Ms. Yang suggested some type of documentation to help with the  
195 definition of “calendar & with possession”. Something should be  
196 provided to the consumer & a log kept by the dispensers.

197  
198 It was reported that dispensers frequently do adjustments without any  
199 charge, even when out of the warranty period. It was also mentioned  
200 that Song-Beverly is not helpful when dealing with digital hearing  
201 aids. We need a law that is more consumer friendly or specific to  
202 hearing aids.

203  
204 Ms. Peffers said that you can’t compare the original intentions of  
205 Song-Beverly, when the product is a wheel chair, a crutch, or a  
206 hearing aid. Song-Beverly is ambiguous.

207  
208 Mr. Ivory suggested redefining Song-Beverly for hearing aids & stated  
209 that only a portion applies to the Bureau. It needs to be made specific  
210 for the industry.

211  
212 Mr. Manning stated that 30-days defines completion of fitting. A  
213 simpler definition will be better for everyone.

214  
215 Discussion followed with suggestions of “total of 30-days”, taking out  
216 terminology, “calendar days” & entire paragraph about “assistive  
217 device”. The term “return/exchange privilege” isn’t clear.

218  
219 Ms. Yang questioned 30-days in possession, what will be there for  
220 consumer & dispensers?

221  
222 Mr. Sager questioned if protection is needed for both, when dealing  
223 with many seniors (a big user of hearing aids) we are dealing with  
224 memory loss & to require a receipt might be difficult for them to keep  
225 track of.

226  
227 Discussion followed about the pros & cons of receipts & definition of  
228 completion of fitting.

229  
230 New language was drafted. “Such terms shall state that for purposes  
231 of this chapter... the term completion of fitting occurs when...

232 Adjustments have been made available while the device has been in  
233 the consumer’s possession for a total of 30 days.”

234  
235 Further discussion included adding a layer of responsibility to the  
236 consumer. Dispensers may change their records & having to verify  
237 with manufacturer how long it was in their possession. Having the  
238 consumer know where they stand was favorable. It was mentioned  
239 that many dispensers will write a check to someone after 45-days  
240 when a hearing aid is returned.

241  
242 Ms. Martin doesn't think receipts should be mandated.

243  
244 Ms. Peffers said if no notations are in the records, you could check  
245 the appointment book.

246  
247 Ms. Dobbs said that if this issue was given to legal counsel for an  
248 opinion, it is still the very beginning of the process.

249  
250 Ms. Yang said that a balance needs to be agreed upon, there will be  
251 high scrutiny by Legislature, if no one knows what the definition of  
252 30 days is. Protection of licensees are highly critiqued by  
253 Legislature.

254  
255 Add to the drafted new language: "g) Provide to the consumer &  
256 maintain documentation each time the device is retained by the  
257 dispenser during 30-day period referenced in (f). "

258  
259  
260 Ms. Martin said now you're putting the burden back to the consumer  
261 & thought perhaps we were working backwards. She has no problem  
262 with the first draft, but doesn't think second addition to the draft was  
263 helpful.

264  
265 Ms. Dobbs suggested that considering the topic & divergant opinions,  
266 we should hold an information session & public could give opinions  
267 on it.

268  
269 Mrs. Sendejas-Lopez thinks public opinion is crucial to allow them to  
270 voice their opinions.

271  
272 Mr. Manning was confident that this addresses 99% of the complaints  
273 received. We're trying to help the consumers understand.

Mr. Manning made a motion to present this information to the public for discussion. Mrs. Sandejas-Lopez seconded the motion.

New language suggested:

f) Such terms shall state that for purposes of this chapter... the terms "completion of fitting" occurs when... Adjustments have been made available while the device has been in the consumer's possession for a total of 30-days.

g) Provide to the consumer & maintain documentation each time the device is retained by the dispenser during the 30-day period as referenced in (f)."

### **Agenda Item VIII- Future Advisory Committee Meeting**

The next Advisory Committee Meeting will be November 18, in Los Angeles at the Summit.

### **Agenda Item X**

The meeting adjourned at 2pm.